

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
ALBERT T. BEANE, JR., individually and
on behalf of all others similarly situated,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON,
BNY CONVERGEX EXECUTION
SOLUTIONS LLC, and CALLAN
ASSOCIATES, INC.,

07-cv-09444 (RMB) (GWG)

Defendants.
-----X

STIPULATION AND ORDER RELATING TO DISCOVERY SCHEDULE

IT IS HEREBY STIPULATED AND AGREED, by and among counsel for plaintiff

Albert T. Beane, Jr., and counsel for defendants The Bank of New York Mellon, BNY

ConvergEx Execution Solutions LLC, and Callan Associates, Inc. (collectively, the "Parties")

that:

1. The Parties shall conduct fact discovery in two phases. The first phase of discovery (the "First Phase") shall involve deposition and written discovery into all relevant issues other than those relating to individual securities transactions executed on behalf of the plans plaintiff seeks to include in his proposed class. The second phase of discovery (the "Second Phase") shall involve deposition and written discovery into individual securities transactions executed on behalf of the plans in plaintiff's proposed class.
2. The Parties are currently engaged in discovery pertinent to the First Phase, and they shall complete the First Phase by August 31, 2008.
3. The Second Phase shall be deferred until the Court issues a decision on

plaintiff's Motion for Class Certification, filed on May 11, 2008, and defendants' Motion to Dismiss the First Amended Complaint, filed on May 30, 2008. In the event the Court's decision on defendants' motion to dismiss and plaintiff's motion for class certification renders any of the discovery associated with the Second Phase necessary, in whole or in part, the Parties shall complete the Second Phase within 75 days of the date of the Court's decision on the outstanding motions.

4. The Parties shall conduct any expert discovery within 45 days after the conclusion of the Second Phase.

Dated: New York, New York 10005
June 11, 2008

MCTIGUE & PORTER LLP

MILBANK, TWEED, HADLEY & McCLOY LLP

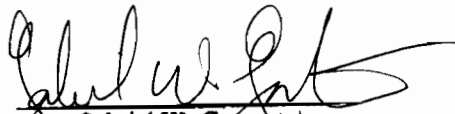
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SO ORDERED THIS
11th DAY OF JUNE, 2008


Hon. Gabriel W. Gorenstein
U.S. Magistrate Judge